THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Revision No. 20 of 2006.

State of Uttaranchal through Collector, Dehradun.
….Revisionist.

Versus

M/s Sahni & Company,
A Garden Over, Pithoragarh through its Partner
Arvind Goel.
..O.P.-Respondent.

Sri Nand Prasad, learned Standing Counsel for the revisionist.
Sri D.C.S.Rawat, holding brief of Sri Rajendra Dobhal, learned Counsel for the respondent.

Dated April 26,2006
P.C.(Hon'ble B.S. Verma, J.)

This revision has been filed under Section 115 of the Code of Civil Procedure against the impugned order dated 06-05-2004, whereby the application under Section 151 CPC of the revisionist dated 13-4-2004 to recall the order dated 12-3-2004 moved in Misc. Civil Case No. 4 of 2004 was rejected by the District Judge Pithoragarh.

Relevant facts of the case are that the revisionist moved an application before the District Judge with a prayer that the case (Civil Suit No. 26 for 1994, M/s Sahani and Company Vs. Stat of U.P.) has been decided by the Court on 28-6-1996 and in the court of execution proceedings the lease deed was executed as per judgment and decree dated 28-6-1996 passed by the court. The execution was struck off in full satisfaction on 13-2-2004. The judgment debtor State was ordered to execute the disputed mining lease deed in favour of the plaintiff in respect of 12 acre land of village Paiya Pauri and Toli Tashil Dharchula within a period of three months.

It was contended before the District Judge on behalf of the decree holder that the Ste Government had granted Rawanna in his favour upto December 2002 and thereafter, Rawanna was not executed in his favour. The judgment debtor never raised any objection in the execution proceeding that the execution of the decree was not maintainable in view of the Apex Court judgment.

The record shows that the execution application was struck off in full satisfaction. The lease deed had been registered in accordance with the decree passed by the court. It also comes out that the lease had been granted in respect of Bhumidhari land of the lease holder. It was not shown by the State-revisionist that the mining was to be done over the Forest Land for which the permission of the Central Government is necessary.

Both the parties were heard by the District Judge and their respective contentions were considered on the disputed matter. The District Judge after perusing the relevant Government Order No. 1637/14-02-97-800(1)/1997 in that regard, which was filed by the decree holder. The State failed to dispute the said Government Order. It was found by the District Judge that the disputed land was not the forest land, rather the land pertains to Bhumidhari land. The finding given by the District Judge is a finding of fact and the scope of revision is limited. It was also found that the execution of the decree was lawfully made and the execution proceedings had already completed. The application by the revisionist was moved after the execution application was struck off in full satisfaction.

The learned counsel for the revisionist could not point out any such illegality in the impugned order passed by the District Judge. Admittedly the execution application was struck off after full satisfaction and the judgment and decree for the court was satisfied. In my opinion, the District Judge has rightly held that after the satisfaction of the decree, the order of the court cannot be amended. The District Judge ha no committed any illegality or material irregularity in passing the impugned order. There is no force in the revision.

The revision is accordingly dismissed. No order as to costs.

(B.S. Verma, J)

RCP